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WIRELESS TELECOMMUNICATIONS BUREAU ACTION

WIRELESS TELECOMMUNICATIONS BUREAU APPROVES REGION 24 (MISSOURI) 700 MHz REGIONAL PLAN

WT Docket No. 02-378

On March 7, 2005, the Region 24 (Missouri)¹ 700 MHz Regional Planning Committee (Region 24) submitted a proposed plan (Plan) for the use of the 12.5 megahertz of spectrum in the 764-776 and 794-806 MHz band (700 MHz public safety band) designated for General Use, and requested Commission review and approval of the Plan.² The Region 24 Plan pre-allocates both narrowband and wideband General Use channels by county as listed in the Region 24 Channel Allotments, Appendix G.³ For the reasons discussed below, we approve the Region 24 700 MHz Regional Plan.

Background. In 1998, the Commission adopted a band plan for the 700 MHz public safety band, and established a structure to allow regional planning committees (RPCs) maximum flexibility to meet state and local needs, encourage innovative use of the spectrum, and accommodate new and as yet unanticipated developments in technology and equipment.⁴ The Commission's role in relation to the RPCs is limited to: (1) defining the regional boundaries; (2) requiring fair and open procedures, *i.e.*,

¹ Region 24 Missouri encompasses the entire state of Missouri, consisting of 114 counties and the City of St. Louis, which does not reside within a Missouri county.

² See Letter dated Mar. 7, 2005, from Stephen T. Devine, Chairman, Region 24 to Marlene H. Dortch, Secretary, FCC (submitting the Region 24 700 MHz Plan on behalf of the Region 24 700 MHz Regional Planning Committee).

³ See Plan Appendix G Channel Allotments. Region 24 frequencies were pre-allocated in county-like area (the area within the county as well as a distance of up to ten miles outside of the county) frequency pools. Region 24 utilized the frequency packing program within the Computer Assisted Pre-coordination Resource and Database System (CAPRAD) administered by the National Law Enforcement and Corrections Technology Center-Rocky Mountain Region (NLECTC-RM) to create its channel allocation plan. The NLECTC-RM is a program of the National Institute of Justice and is sponsored by the University of Denver through the Denver Research Institute. The CAPRAD system is available at <http://caprad.nlectc.du.edu>.

⁴ See 47 C.F.R. § 90.527; see also The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements through the Year 2010, WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152 (1998) (*First Report and Order*).

requiring notice, opportunity for comment, and reasonable consideration; (3) specifying the elements that all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.⁵

Plan Requirements. There are fifty-five RPCs and each committee is required to submit its plan for the assignment of licenses for General Use spectrum.⁶ Each regional plan must contain certain elements⁷ and must be coordinated with adjacent regions.⁸ RPCs are expected to ensure that their committees are representative of all public safety entities in their regions by providing adequate notice of all meetings, opportunity for comment, and reasonable consideration of views expressed. Plans must include an explanation of how all eligible entities within the region were given such notice.⁹ Plans should list the steps undertaken to encourage and accommodate all eligible entities to participate in the planning process such as holding meetings in various parts of the region. In addition, a regional plan should describe outreach efforts made to tribal governments.

Regional plans may differ somewhat in approaches to spectrum planning and management. In particular, some plans may make specific assignments to eligible public safety entities, while others may establish an allotment pool approach based on political boundaries such as counties.¹⁰ However, all 700 MHz plans submitted for review and approval must sufficiently address each of the common elements in the Commission's regional plan requirements.¹¹ RPCs also are encouraged to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹²

⁵ See *First Report and Order*, 14 FCC Rcd 195 ¶ 87 (1998).

⁶ See 47 C.F.R. 90.531. The 700 MHz public safety band plan contains 24 MHz of spectrum for public safety services at 764-776 MHz and 794-806 MHz, and is divided into several segments by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels.

⁷ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84.

⁸ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

⁹ See *First Report and Order*, 14 FCC Rcd at 193-94 ¶ 84. RPCs were directed to promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 ¶ 86.

¹⁰ See Plan Appendix G, Channel Allotments. Region 24 frequencies are pre-allocated in county-like area (the area within the county as well as a distance of up to ten miles outside of the county) frequency pools. Region 24 believes that such an extended county area will enable Region 24 to maximize channel-reuse of any “orphan” channels. Given this approach, after Commission approval is obtained, any modifications to the existing Region 24 Channel Allotment list, and the extended parameters described above, will require an amendment to the Plan.

¹¹ 47 C.F.R. § 90.527.

¹² The NCC was a federal advisory committee established by the Commission in 1999 to address and advise the Commission on operational and technical parameters for use of the 700 MHz public safety band. The NCC was also tasked with providing voluntary assistance in the development of coordinated regional plans, and developed a *Regional Planning Guidebook*. Following the sunset of the NCC's charter on July 25, 2003, the National Public Safety Telecommunications Council (NPSTC), agreed to continue to provide assistance to regional planners. The *Guidebook* is available at the NPSTC website <http://www.npstc.org/documents.html>.

Review of the Region 24 Plan. Region 24 submitted its proposed plan on March 7, 2005.¹³ Region 24 convened its first of ten 700 MHz regional planning meetings beginning on October 5, 2000, wherein it appointed its officers, and established three subcommittees (Implementation, Interoperability and Technology). Bylaws were adopted on January 10, 2002.¹⁴ The Plan includes copies of published meeting announcements, notices and a detailed membership list.¹⁵ The membership appears to be sufficiently diverse and we note that meetings were held throughout the state to encourage participation and facilitate attendance.¹⁶ The Plan details the operations of the regional plan committee, procedures for requesting spectrum allotments, plan modification, frequency coordination and interference protection measures.¹⁷ The Plan explains the low power secondary operations criteria and use of lower power channels, and discusses system implementation and spectrum utilization.¹⁸ Region 24 anticipates an open filing window where applicants may apply for available channels in their county area.¹⁹ Region 24 encourages small agencies to partner with other agencies in multi-agency or regional systems to promote spectrum efficiency and to meet both small and large agency capacity needs.²⁰ Region 24 further explains that the 700 MHz band in Region 24 is relatively clear of incumbent broadcast stations,

¹³ See *Supra* note 2. Region 24 previously submitted a proposed plan in September 2003, which the Public Safety and Critical Infrastructure Division (Division), Wireless Telecommunications Bureau determined to be deficient in the following respects: (1) evidence of successful coordination with adjacent regions, and (2) demonstration of adequate notice to all eligible entities and regional planning committee membership information. At the time of filing, two adjacent regions, Region 34 Oklahoma and Region 4 Arkansas had not convened their initial meetings and as such were “unformed” and as such Region 24 was unable to obtain concurrence. On Mar. 29, 2004, the Division denied Region 24’s request for waiver of Section 90.527(a)(5) of the Commission’s Rules to permit the filing of the plan without coordination from all adjacent regions; dismissed the plan without prejudice and suggested that Region 24 submit a revised plan that would resolve the deficiencies noted therein. See Letter dated Mar. 29, 2004, from D’wana R. Terry, Chief, Public Safety and Critical Infrastructure Division to Stephen T. Devine, Chairman, Region 24 (*Division Letter*).

On Apr. 17, 2004, Region 24 filed a petition for reconsideration of the Division’s determination, but withdrew the petition on Mar. 7, 2005. See Letter dated Mar. 7, 2005, from Stephen T. Devine, Chairman, Region 24 to Marlene H. Dortch, Secretary, FCC (Motion to Withdraw). The Division granted the withdrawal request on Mar. 11, 2005. See In the Matter of Region 24 (Missouri) 700 MHz Regional Committee Proposed Public Safety Plan, WT Docket 02-378, *Order*, 20 FCC Rcd 5223 (WTB PSCID 2005). The current Plan addresses the deficiencies previously identified by the Division, and has been modified to correct certain administrative errors.

¹⁴ Plan Appendix A, Bylaws of the 700 MHz Regional Planning Committee – Region 24 (State of Missouri), revised Sept. 16, 2002.

¹⁵ Plan Appendix D, List of Meetings, Summaries of Minutes, and Agenda. This is a chronological list of meetings held and related outreach events where 700 MHz information was disseminated.

¹⁶ Plan Appendix B, Regional Plan Members.

¹⁷ Plan at 5-7.

¹⁸ Plan at 12-13.

¹⁹ Plan Appendix G, Channel Allotments. Region 24 has removed the frequency give-back procedure which the Division determined to be outside the scope of authority the Commission vested in the 700 MHz RPCs. See *Division Letter* at 4-5.

²⁰ Plan at 18-19.

and that several public safety eligible entities are currently engaged in planned system development.²¹

The Plan was coordinated with the adjacent regions.²² The Plan also includes *Inter-Regional Coordination Procedures and Procedures for Resolution of Disputes that May Arise Under FCC Approved Plans* (signed by the chairpersons of 700 MHz Regional Planning Regions 4, 13, 15, 16, 17, 26, 34 and 39).²³

On April 15, 2005, the Region 24 Plan was placed on *Public Notice* for comment.²⁴ We received no comments on the Plan. We have reviewed the Plan submitted by Region 24, and conclude it complies with FCC rules and policies. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.102(b) of the Commission's Rules, 47 C.F.R. § 1.102(b), the Region 24 (Missouri) 700 MHz Public Safety Plan is APPROVED.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

Action by Deputy Chief, Public Safety Division and Critical Infrastructure Division, Wireless Telecommunications Bureau.

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²¹ Plan at 20.

²² Region 24 re-circulated its proposed revised Plan to all eight adjacent regions, obtaining the required Letters of Concurrence from the formerly unformed regions Region 4-Arkansas and Region 34-Oklahoma. In addition, new Letters of Concurrence were obtained from Region 13-Illinois, Region-15 Iowa, Region 17-Kentucky, Region-16 Kansas, Region 26-Nebraska, and Region 39-Tennessee. See Plan Appendix H, Inter-Regional Dispute Resolution Agreements and Regional Concurrences.

²³ Plan Appendix H, Inter-Regional Dispute Resolution Agreement and Regional Concurrences.

²⁴ See Comments Invited on Region 24 (Missouri) 700 MHz Regional Planning Committee Proposed Public Safety Plan, WT Docket No. 02-378, *Public Notice* 20 FCC Rcd 8056 (WTB PSCID 2005). Comments were due May 15, 2005 and Reply Comments were due May 31, 2005.